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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/755,798      | 01/05/2001  | Richard D. Frazer    | G00284/US           | 5281             |

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| EXAMINER |
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BINDA, GREGORY JOHN

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| ART UNIT | PAPER NUMBER |
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3679

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05/16/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/755,798

**Applicant(s)**

FRAZER ET AL.

**Examiner**

Greg Binda

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 April 2008 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

*Drawings*

2. The replacement drawings filed April 11, 2008 are objected because Figs. 2 & 3 include reference numeral 10, but in those drawings the numeral 10 points only to a boot not a transmission joint.

*Claim Rejections - 35 USC § 112*

3. Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 8 & 22 each recite the limitations "a first end" and "a second end" but it is unclear whether these ends are included within or are external to the body portion that precedes them.

*Claim Rejections - 35 USC § 102*

4. Claims 1-3, 5, 15-17 & 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Blee, US 5,379,856. Fig. 4 shows a transmission joint sealing assembly comprising: an interconnecting shaft 14a including a first circumference 68a; and a transmission joint sealing boot sealing boot 34a, 40a defined by a body portion 70a with a central inner cavity defined by an inner wall 74a. The inner wall 74a of the body portion is disclosed in col. 5, line 43 and col. 6, lines 25-27 as being compressed when engaged with the first circumference 68a of the shaft 14a,

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which indicates the circumference of the inner wall 74a prior to compression is smaller than the circumference 68a of the shaft 14a. Fig. 4 shows the sealing boot 34a, 40a has first end 54a having a mating surface connecting with the transmission joint and a second end 50a disposed opposite the first end. In col. 6, lines 15-40, the body portion 70a is disclosed as manufactured from closed cell material.

*Claim Rejections - 35 USC § 103*

5. Claims 4, 6, 7, 9-14, 18, 20 & 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blee.
  - a. Claims 4 & 18. Blee discloses closed cell material, but does not expressly disclose silicone. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include silicone, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.
  - b. Claims 6, 7, 9, 10, 12-14, 20 & 21. Blee shows a foam sealing boot 34a. 40a comprising all the limitations of the claims but does not expressly disclose the foam having a density in the range from 10 kg/m<sup>3</sup> to 27 kg/m<sup>3</sup> and/or being heat resistant to 450 °F. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide foam with a density in the range from 10 kg/m<sup>3</sup> to 27 kg/m<sup>3</sup> and/or being heat resistant to 450 °F, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum

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or workable ranges involves only routine skill in the art. *In re Kulling*, 897 F.2d 1147, 14 USPQ2d 1056.

i. Claim 11. see item 'a' above.

6. Claims 8 & 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blee in view of Goldowsky, US 3,911,203. In Fig. 4 Blee shows a boot 34a, 40a with a second end 50a, but none expressly discloses providing its second end with a chamfer. In col. 2, lines 6-9, Goldowsky teaches providing the end of a boot with a chamfer 26 in order to facilitate inserting boot over another element. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the boot of Blee by providing the second end of the boot with a chamfer similar to that of Goldowsky in order to facilitate inserting boot over a another element (e.g. an interconnecting shaft) as taught by Goldowsky.

#### *Conclusion*

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Binda whose telephone number is (571) 272-7077. The examiner can normally be reached on M-F 9:30 am to 7:00 pm with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Greg Binda/  
Primary Examiner, Art Unit 3679